

CITY OF SAN JOSÉ, CALIFORNIA  
Department of Planning, Building and Code Enforcement  
801 North First Street, Room 400  
San José, California 95110-1795

Hearing Date/Agenda Number  
P.C. 12/08/04 Item 3.i.

File Number  
CPA99-026-01

Application Type  
Conditional Use Permit Amendment

Council District  
10

Planning Area  
Almaden

Assessor's Parcel Number(s)  
577-14-050; -051

## STAFF REPORT

### PROJECT DESCRIPTION

Completed by: Lesley Xavier

Location: Southwest corner of Redmond Avenue and El Paseo Drive

Gross Acreage: 6.25

Net Acreage: 6.25

Net Density: N/A

Existing Zoning: R-1-8 Single-Family  
Residence District

Existing Use: Church containing 570 seats and private K-8 school for up to 450 students

Proposed Zoning: No change

Proposed Use: Increase the maximum number of students from 450 to 540 at the existing private school.

### GENERAL PLAN

Completed by: LX

Land Use/Transportation Diagram Designation  
Public/Quasi Public

Project Conformance:  
☒ Yes ☐ No  
☐ See Analysis and Recommendations

### SURROUNDING LAND USES AND ZONING

Completed by: LX

North: Single-family detached residential

R-1-5 Single-Family Residence

East: Single-family attached residential

R-M (PD) Planned Development

South: Single-family detached residential

R-1-5 Single-Family Residence

West: Single-family detached residential

R-1-5 Single-Family Residence

### ENVIRONMENTAL STATUS

Completed by: LX

☐ Environmental Impact Report found complete  
☒ Addendum to a Negative Declaration adopted on 10/12/99  
☐ Negative Declaration adopted on

☐ Exempt  
☐ Environmental Review Incomplete

### FILE HISTORY

Completed by: LX

Annexation Title: Casey No. 9

Date: December 2, 1964

### PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

☐ Approval  
☒ Approval with Conditions  
☐ Denial  
☐ Uphold Director's Decision

Date: \_\_\_\_\_

Approved by: \_\_\_\_\_  
☒ Action  
☐ Recommendation

### APPLICANT/OWNER/DEVELOPER

Robert Serventi, CFO, Roman Catholic Bishop of San Jose  
900 Lafayette Street, Suite 301  
Santa Clara, CA 95090

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PUBLIC AGENCY COMMENTS RECEIVED

Completed by: LX

Department of Public Works

- None.

Other Departments and Agencies

- San Jose Fire Department

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GENERAL CORRESPONDENCE

- None.

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ANALYSIS AND RECOMMENDATIONS**BACKGROUND**

The applicant, Roman Catholic Bishop of San Jose, is requesting a Conditional Use Permit Amendment to add 90 students to the existing 450 student capacity of a private K-8 school for a total capacity of 540 students. The school is located on a 6.25-gross-acre site with a church facility. The existing facility was built in 1966 before the Conditional Use Permit requirement for churches that began in 1969. The existing church and school were the subject of a Conditional Use Permit (CUP) File No. CPA99-06-026 approved in 1999. The CUP allowed the parish building to have a maximum of 570 seats for worship service.

**Project Description**

The proposed project will add 90 students to an existing private K-8 school that currently has a maximum of 450 students. The school is located on a portion of a 6.25-acre site containing a legal non-conforming church. The school contains 18 classrooms, two multi-purpose rooms, a library, a computer room, a science lab, administrative offices and a gymnasium. Outdoor play areas are located within courtyards framed by the existing buildings. The four existing church buildings contain a total of 28,280 square feet of floor area. The school will not be adding any square footage to the existing buildings or staff. Two drop-off areas are provided for passenger vehicles at the front and rear of the school. A total of 160 parking spaces are provided for the church and school. The school operates Monday through Friday from 8:00 a.m. to 3:00 p.m.

**ENVIRONMENTAL REVIEW**

The environmental impacts of this project were addressed by an Initial Study and Mitigated Negative Declaration (File No. CP99-026) adopted on October 12, 1999, which concluded that the project would not result in any significant environmental impact. Mitigation was included in the project to ensure that the project would not result in undue impacts on adjacent properties.

**GENERAL PLAN CONFORMANCE**

The proposed use is consistent with the San José 2020 General Plan Land Use/Transportation Diagram designation of Public/Quasi Public in that the category is used to designate lands used by private entities, including churches, private schools, and private hospitals.

## **ANALYSIS**

The primary issue analyzed in this report is parking. The church uses the parish for worship on Saturday and Sunday, and occasionally on weekdays from 8:30 to 10:30 a.m. The school operates Monday through Friday from 8:00 a.m. to 3:00 p.m. The Zoning Ordinance requires 143 parking spaces for the parish building based on a requirement of one space per 4 fixed seats. The project is conditioned under the previously approved conditional use permit for the addition of the private school (File No. CP99-026) to prohibit simultaneous use of the church and school so that parking demand does not exceed the 160 spaces that are available on the site.

The school should provide 35 spaces based on the Zoning Ordinance standard of one space for each teacher and each employee. Parent and visitor parking is not factored into the standard ordinance parking. The school will increase the total capacity of students from 450 to 540 with no increase in staffing. Based on the current conditional use permit requirements that prohibits simultaneous use of the parish building and school, the 160 parking spaces meets the requirement of the Zoning ordinance.

## **PUBLIC OUTREACH**

Notices of the public hearing for this project were sent to all property owners within 500 feet of the subject property. The Planning Commission Agenda is posted on the City of San José website, which includes a copy of the staff report. Staff has been available to discuss the project with members of the public.

## **RECOMMENDATION**

The Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit Amendment and include the following findings and conditions in its Resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Public/Quasi Public on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The project site is located in the R-1-8 Single-Family Residence Zoning District.
3. The project consists of a Conditional Use Permit Amendment to add 90 students to the existing capacity of 450 students for a total capacity of up to 540 students at a private K-8 school at a legal non-conforming church on a 6.25-gross-acre site.
4. The existing church is located at the southwest corner of Redmond Avenue and El Paseo Drive. Surface parking and church buildings consisting of a rectory, garage, social hall, and a parish containing 570 seats are located at angle to Redmond Avenue on the westerly portion of a triangular-shaped site.
5. The project is located on the easterly portion of the site along El Paseo Drive.
6. The project will add 90 students to an existing private K-8 school for a total capacity of 540 students on a portion of a 6.25-acre site that also contains a legal non-conforming church.

7. The site has a total of 160 parking spaces for the church and school. The school operates Monday through Friday from 8:00 a.m. to 3:00 p.m.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The proposed project is consistent with the adopted San José 2020 General Plan Land Use/Transportation Diagram of the City of San José.
2. By the inclusion of conditions under File No. CP99-06-026 that prohibits the simultaneous use of the Church and School, adequate parking is provided on site.
3. The proposed project complies with all applicable provisions of the Zoning Ordinance.
4. The proposed project is in compliance with the California Environmental Quality Act.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not
  - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
  - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
  - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
3. The proposed site is adequately served:
  - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
  - b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

## **CONDITIONS PRECEDENT**

This Conditional Use Permit Amendment shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall

have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.
2. **Conditional Use Permit Amendment.** This Amendment shall be implemented in conjunction with Conditional Use Permit File No. CP99-06-026. The conditions of the original Conditional Use Permit shall remain in full force and effect except as explicitly modified in this Amendment.

## CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
2. **Nuisance.** This use shall be operated in a manner, which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.

## CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit Amendment shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
2. **Revocation, Suspension, Modification.** This Conditional Use Permit Amendment may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
  - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or

- b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
- c. The use as presently conducted creates a nuisance.